

REMARKS

The Examiner asserts that “these inventions are independent or distinct for the reasons given above and **there would be a serious burden** on the examiner if restriction is not required because the inventions have acquired a separate status in the art due to their divergent subject matter, restriction for examination purposes as indicated is proper.” (Emphasis added.)

Applicants respectfully disagree. Examining all of original claims in one application will not be a serious burden on the examiner because of the relationship of the claims. Independent claim 1 (which is a composition claim representative of Group I claims) is as follows (with emphasis and numbering added):

1. A flavoring system for food products, said system comprising **(1) a sulfury-cheddar flavor component, (2) a cheesy flavor component and (3) a creamy-buttery component,**

wherein the **sulfury-cheddar flavor component** is prepared by treating a first dairy product containing an aqueous protein source and fat source combination with lipase and a lactic acid culture at a temperature of about 15 to about 35°C for about 10 to about 72 hours to obtain a first mixture having a pH of about 5.8 or less; adjusting the pH of the first mixture to about 6 or higher to obtain a second mixture; treating the second mixture with a sulfur-containing substrate, and a microorganism that can convert the sulfur-containing substrate to sulfur-containing flavor compounds, and optionally a first bacterocin source, at a temperature of about 15 to about 35°C for about 12 to about 96 hours to obtain a third mixture; heating the third mixture at a temperature sufficient to inactivate the cultures and enzymes in the third mixture to form the sulfury-cheddar flavor component;

wherein the **cheesy flavor component** is prepared by treating a second dairy product containing an aqueous protein source and fat source combination with a lactic acid culture at a temperature of about 15 to about 45°C for about 10 to about 24 hours to obtain a fourth mixture; treating the

fourth mixture with a lipase, a protease, and an aminopeptidase, and optionally a second bacterocin source, at a temperature of about 20 to about 50°C for about 16 to about 96 hours to obtain a fifth mixture; treating the fifth mixture at a temperature sufficient to inactivate the cultures and enzymes in the fifth mixture to form the cheesy flavor component;

wherein the **creamy-buttery flavor component** is prepared by treating a third dairy product containing an aqueous protein source and fat source combination with a lactic acid culture at a temperature of about 20 to about 35°C for about 10 to about 24 hours to obtain a sixth mixture having a pH of about 5.4 or less; treating the sixth mixture with a diacetyl-producing flavor culture, and optionally a third bacterocin source, at a temperature of about 20 to about 35°C for about 16 to about 240 hours to obtain a seventh mixture; heating the seventh mixture at a temperature sufficient to inactivate the cultures and enzymes in the seventh mixture to form the creamy-buttery flavor component;

wherein at least one of the first, second, and third bacterocin sources is included, and wherein **the sulfury-cheddar component, the cheesy component and the creamy-butter component** of the flavoring system can be incorporated in varying amounts into food products to produce a variety of flavors.

Group II claims 27-29 are directed to a **sulfury-cheddar flavor component**. This sulfury-cheddar flavor component is the same as the first-listed **sulfury-cheddar flavor component in claim 1**.

Group III claims 30 and 31 are directed to a **cheesy flavor component**. This cheesy flavor component is the same as the second-listed **cheesy flavor component in claim 1**.

Group IV claims 32 and 33 are directed to a **creamy-buttery flavor component**. This creamy-buttery flavor component is the same as the third-listed **creamy-buttery flavor component in claim 1**.

In Applicant's opinion, a search for Group I claims should at least cover class 426, subclass 36; class 426, subclass 535; class 426, subclass 534; and class 426, subclass 534¹ since Group I claims also include the three flavor components included separately in Groups II-IV. Thus, by necessity, a effective and reasonably search of Group I claims should also include effective and reasonable searches of the specific flavor components of the claims of Groups II-IV. Thus, no serious burden would be placed on the Examiner to search and examiner all four groups at the same time. On the other hand, a serious burden would be placed on the Applicants if the restriction requirement is maintained since up to three additional divisional applications would be required to be filed and prosecuted².

If the Examiner believes that a telephonic or personal interview would be helpful in the present case, the Examiner is requested to telephone Applicants' attorney at the telephone number set forth herein below.

The Commissioner is hereby authorized to charge any additional fees which may be required in the Application to Deposit Account No. 06-1135.

Respectfully submitted,
FITCH, EVEN, TABIN & FLANNERY

By 
Richard A. Kaba
Registration No. 30,562

October 13, 2006
120 South LaSalle Street, Suite 1600
Chicago, Illinois 60603-3406
Telephone: (312) 577-5000

¹ Applicants note that the Examiner has indicated that both Groups III and IV are classified in the same class and subclass. Whether or not the Examiner intended these Groups to be in the same or different subclasses would not effect the arguments presented herein.

² Should the restriction requirement be maintained and such divisional applications be filed, it is very likely that the Examiner would simply use the search in the parent application in each of the divisional applications.